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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

UNITED MICROELECTRONICS  
CORPORATION, et al.,

Defendants.

CASE NO.: 3:18-cr-00465-MMC

**DECLARATION OF WENFENG SU  
IN SUPPORT OF DEFENDANT  
FUJIAN JINHUA INTEGRATED  
CIRCUIT CO., LTD.'S OPPOSITION  
TO THE GOVERNMENT'S MOTION  
IN LIMINE NO. 1**

Judge: The Honorable Maxine M. Chesney  
Trial Date: February 14, 2022

Hearing Date: January 18, 2022  
Hearing Time: 10:00 a.m.

# **DECLARATION OF WENFENG SU**

I, WENFENG SU, declare and state as follows:

3       1. I am an attorney at King & Wood Mallesons LLP, which is counsel of record for  
4 Defendant Fujian Jinhua Integrated Circuit Co., Ltd. (“Jinhua”) in the above-captioned case. I am a  
5 fluent speaker of both Chinese and English. I submit this declaration in support of Jinhua’s  
6 Opposition to the Government’s Motion *in Limine* No. 1 to Admit Statements of Agent. This  
7 declaration is based upon my personal knowledge, and, if called to testify, I could and would do so  
8 competently as to the matters set forth herein.

9        2. I understand that the United States government seeks to admit into evidence various  
10 written memoranda of interviews or interrogations conducted by the Taiwan Ministry of Justice  
11 Investigation Bureau (“MJIB”) and/or Taiwanese prosecutors. These can be called “Interrogation  
12 Record” or “Record of Interview,” or may even be called a “Transcript.”

13       3. I reviewed Exhibit E to the Government’s Motion, which is an “Interrogation Record”  
14 of Fengming Kuo (Ray Gao) that took place on the morning of April 22, 2019, starting at 9:22 a.m.

15        4. I also reviewed a video of the interrogation, produced by the government in this matter  
16 at UMCD-0000190. According to the timestamp on this video, the interrogation took place on April  
17 22, 2019, from about 9:16 am to 1:40 pm.

18 5. Based on my review of Exhibit E and UMCD-0000190, and the time stamps on both,  
19 I believe UMCD-0000190 to be the video recording of the interview memorialized in Exhibit E.

20        6. Even though Exhibit E is formatted in a transcript-like (Q&A) format, Exhibit E is  
21 not a verbatim transcript of Kuo's interrogation.

22        7. For example, at the very beginning of the interrogation, after informing Kuo of his  
23 legal rights, the prosecutor showed Kuo a U.S. patent application (see page 3 of 12 of the transcript)  
24 for which Kuo was listed as one of the inventors. Kuo immediately spotted that there has been a  
25 mistake and that he did not invent the patent. Rather, the patent was invented by another UMC  
26 employee with a similar but different name (Mingfeng Kuo as opposed to Fengming Kuo) and who  
27 was known to Kuo as Eric. On the video recording, Kuo laughed and half-jokingly said, “Stop  
28 messing around. I think there are lots of things that you people have not investigated thoroughly and

1 you just come to ask me.” The prosecutor laughed as well and left the room with some files. She  
2 came back about 11 minutes later. While she was away, Kuo asked the typist about the case and  
3 some procedural questions. Kuo also said, with a smile, that the investigation felt to him like  
4 harassment, and he was annoyed because they kept asking him about groundless things. When the  
5 prosecutor came back into the room, she and Kuo discussed more about the two similar names. Kuo  
6 explained that Eric worked in UMC’s etching department. He then wrote down “etch” in Chinese on  
7 his notebook for the prosecutor and the typist because they did not know what it meant and its  
8 Chinese characters. The prosecutor then left the room for a second time and came back after about a  
9 minute. None of this is reflected in Ex. E.

10        8. At other points, Kuo also sought clarifications on the questions asked. The prosecutor  
11 would then explain. Such questions and explanations are not recorded in the transcript. There was at  
12 least one instance where the prosecutor appeared to have told the typist what to put down as Kuo's  
13 response and watched him type it up, while Kuo sat silently across the table, rather than record Kuo's  
14 comments verbatim. This occurred at 0:29:21 in the video after Kuo had stated that he did not see  
15 Micron trade secrets at UMC.. After this exchange, the prosecutor told Kuo that she still had to ask  
16 him the questions even though he had not seen the trade secrets, but again, the transcript did not  
17 reflect this statement. Specifically, the prosecutor said "I'll have to ask you the questions regardless,"  
18 to which Kuo responded "I don't know" then the prosecutor said, "you don't know because you've  
19 never seen it [referring to the trade secrets]."

20        9. There are other such instances of the transcript not accurately reflecting everything  
21 that was said in the interrogation, and I provide these only as exemplars. If asked, I could compile a  
22 more fulsome list.

23        10. I declare under penalty of perjury under the laws of the United States that the  
24 foregoing is true and correct. Executed on this 17th day of January 2022 in Monterey, CA

By: /s/ Wenzhong Su  
WENZHONG SU

## **SIGNATURE ATTESTATION**

Pursuant to Civil Local Rule 5-1(i), I attest under penalty of perjury that concurrence in the filing of this document has been obtained from any other signatory to this document.

/s/ Jack P. DiCanio

Jack P. DiCanio